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## Austria

## Biotechnology

## Annual

## 2006

**Approved by:**

Sarah Hanson  
U.S Embassy

**Prepared by:**

Dr. Roswitha Krautgartner

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**Report Highlights:**

Eight of Austria's nine Federal States have passed biotechnology precautionary bills to protect their organic and small-scale agricultural sector with the ninth State implementing precautionary measures in its Environmental Act. Three Austrian ordinances still ban the planting of all EU-approved biotech crops. In addition, the Austrian Ministry of Health issued a government ordinance to implement a marketing ban on Monsanto's GT73 oilseed rape. The Austrian Government used its EU presidency during the first half of 2006 to generate wide discussion on agricultural biotechnology amongst EU countries. Two big conferences on green biotechnology were hosted by Austria in 2006. Austria remains hostile to biotech crops.

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## SECTION I. EXECUTIVE SUMMARY

Austrian politicians, government decision makers, farmer organizations and consumers share the opinion that agricultural biotechnology carries an incalculable risk, does not have benefits, and is not needed. Within the European Union, Austria is one of the leading opponents of agricultural biotechnology.

The Austrian Government used its EU presidency during the first half of 2006 to generate wide discussion on agricultural biotechnology amongst EU countries. Two big conferences on green biotechnology were hosted by Austria.

Austria has fully implemented EU regulations on biotechnology and put in place stricter national laws. Eight of the nine Federal States have passed biotechnology precautionary bills to protect their organic and small-scale agricultural sector, the ninth State implemented measures in its Environmental Act. Three Austrian ordinances ban the planting of all EU-approved biotech crops. In addition to that the Austrian Ministry of Health issued a government ordinance on April 13, 2006 to implement a marketing ban on Monsanto's glyphosate-tolerant GT73 oilseed rape.

Responding to consumers' anti-biotech attitudes and NGOs' anti-biotech lobbying, the Austrian retail sector agreed to refrain from stocking or selling biotech foods. Presently only biotech feed (soybean meal) can be found in the Austrian market.

## SECTION II. BIOTECHNOLOGY AND PRODUCTION

### a) Commercial Production of Biotechnology Crops

Austria does not commercially produce biotech crops.

### b) Biotechnology Crops Under Development

There are no biotech crops under development in Austria that will be on the market in the coming year.

### c) Imports of Biotechnology Crops/Products

Austria imports on average 600,000 MT of soybean meal for feeding purposes a year. The imports mainly come from Germany and the Netherlands, where soybeans from North and

South America are processed. 90% of the soybean meal is labeled and declared as being derived from biotech soybeans.

**d) Food Aid**

Austria is not a food aid recipient and is not likely to be one in the near future.

**e) Production of Biotechnology Crops not Developed in the United States**

Austria does not produce any biotech crops.

## **SECTION III. BIOTECHNOLOGY POLICY**

**a) Regulatory Framework**

### **EU Law**

Austria has fully implemented EU regulations on biotechnology.

### **National Law**

#### **Gene Technology Act (Gentechnikgesetz)**

As a member of the European Union, Austria has implemented the directives, decisions, regulations and guidelines of the European Union pertaining to LMOs (Living Modified Organisms) through federal laws and ordinances. The Gene Technology Act and its amendments represent the core of Austrian regulations. It regulates the main aspects of biotechnology and genetic engineering: contained use of LMOs, deliberate release of LMOs into the environment, the placing on the market of products that contain LMOs, and the application of biotechnology in human medicine, such as gene analysis and gene therapy.

#### **The Ordinance on Work with LMOs in Contained Use (Systemverordnung)**

The Ordinance on Work with LMOs in Contained Use defines the Gene Technology Act in more detail, such as risk assessment, the classification of LMOs, the necessary equipment of laboratories according to classification and scale, qualification of staff, safety aspects, and the measures to be taken in case of accidents.

#### **The Ordinance on Deliberate Release of LMOs into the Environment (Freisetzungsverordnung)**

The Ordinance on the Deliberate Release of LMOs into the Environment is also based on the Gene Technology Act and contains the requirements in more detail that have to be considered by applicants for the approval of a deliberate release of a LMO in Austria.

#### **The Ordinance on Public Hearings (Anhörungsverordnung)**

The Ordinance on Public Hearings prescribes in more detail the administrative procedures that have to be considered in those cases where the Austrian Gene Technology Act requires a mandatory public hearing. These cases are: applications for deliberate release of LMOs into the environment and contained use of LMOs in higher risk classes and on a large scale.

#### **"Book of Biotechnology" (Gentechnikbuch)**

The chapters of the "Book of Biotechnology" are put out by the Advisory Board on Gene Technology and outline the current "state of technology" in the field of biotechnology and

genetic engineering and are meant to keep pace with biotech advances. The book has the legal status of an objectified expert opinion. If necessary chapters of the book can be published as an ordinance and thus enter into force like a law.

### **"Register of products containing LMOs" (Gentechnikregister)**

The "Register of products containing LMOs" continuously lists up those products that have been approved under Directive 90/220/EEC following the procedures of Article 13.

### **Three Ordinances to Ban the Import of Genetically Modified Corn**

In three cases, namely the placing on the market of genetically modified corn by two companies, Austria has issued a ban for the import of these products into Austria. The measures were taken in accordance with Article 16 of Directive 90/220/EEC and led to the publication of three ordinances dealing with this subject: Import ban on the genetically modified corn breeding line **MON 810** (Verbot des Inverkehrbringens des gentechnisch veränderten Maises Zea Mays L., Linie **MON 810**), import ban on the genetically modified corn breeding line **T25** (Verbot des Inverkehrbringens des gentechnisch veränderten Maises Zea Mays L., Linie **T25**), and import ban on the genetically modified corn breeding line **Bt 176** (Verbot des Inverkehrbringens des gentechnisch veränderten Maises Zea Mays L., Linie **Bt 176**).

Austria, France, Germany, Greece and Luxembourg put in place "safeguard bans" to exclude EU approved biotech products under article 16 of environmental Directive 90/220 – the forerunner of Directive 2001/18 on the deliberate release of GMO's into the environment. The European Commission believes that these bans are not justified and should be abolished. At the EU Environment's Council meeting on June 24, 2005, the European Commission had proposed that the bans on various strains of corn and rapeseed be lifted. The Council meeting brought an overwhelming vote against the lifting of all bans (only UK voted in favor of lifting all eight GMO bans, while Finland and Sweden abstained). Austria and its combatant countries succeeded in preventing the repeal of the national GMO bans by the European Commission. At this stage it cannot be predicted if or when the Commission will either resubmit the bid or drop it or even will end up going to the court.

### **New Ordinance to Ban the Import of GT73 Oilseed Rape**

The Austrian Ministry of Health issued a government ordinance on April 13, 2006 to implement a marketing ban on oilseed rape deriving from Monsanto's glyphosate-tolerant GT73 canola line. The ordinance expires December 31, 2008, at which time the Ministry of Health intends to re-assess the scientific database. Although the EU Commission approved GT73 in August 2005, the Austrian Health Ministry declared that it would provide well-supported reasons for issuing the ordinance. The Austrian Health Minister cited recent studies from the University of Vienna's Institute for Environmental Protection and Vegetation Ecology as justification for the ban. The studies concluded that unintentional mingling of biotech rape with conventional seeds along transportation routes (rails, roads, loading platforms) is possible. The Austrian Federal Environmental Agency produced a separate report highlighting "inadequate testing of the product with regard to toxicity and allergies". The scientific committee of the Austrian Biotechnology Commission also recommended the ban until 2008.

### **Ordinance on Labeling of Products that Contain LMOs (Gentechnik-Kennzeichnungsverordnung)**

The Ordinance on Labeling of products that contain LMOs prescribes the mandatory labeling for products that contain LMOs or consist of mixtures of both modified and non-modified

organisms. This regulation does not apply to "novel foods", pharmaceuticals and products that are only destined for contained use or scientific purposes.

#### **Ordinance on Genetically Modified Seed (Saatgut-Gentechnik-Verordnung)**

The Ordinance on Genetically Modified Seed prescribes the mandatory labeling for all genetically modified seed varieties covered by Directive 90/220/EEC. Furthermore the ordinance sets up a threshold for accidental contamination of conventional and organic seed with genetically modified seed (0,1% for subsequent controls).

#### **Ordinance on Thresholds of certain Genetically Modified Organisms in Feed (Futtermittel-GVO-Schwellenwert-Verordnung)**

The Ordinance on Thresholds of certain Genetically Modified Organisms in Feed sets up a threshold of 1% for accidental or technically unavoidable contamination of feed with certain LMOs.

#### **Ordinance to Limit Emissions in Waste Water Resulting from Work with LMOs (AEV Gentechnik)**

Another Ordinance passed by the Minister for Agriculture regulates the limitation for emissions in waste water resulting from work with LMOs in containment.

#### **Ordinance on the Protection of Employees against Hazards caused by Biological Agents (Verordnung biologische Arbeitsstoffe –VbA)**

The Ordinance on the Protection of Employees against Hazards caused by Biological Agents prescribes measures to be taken to avoid risks and dangers resulting from work with biological agents such as equipment, hygiene, handling of agents, reduction of exposure, vaccination of employees etc. An annex contains a classification of organisms.

#### **"Codex Alimentarius Austriacus" (Oesterreichisches Lebensmittelbuch)**

Soft law: The "Codex Alimentarius Austriacus" contains guidance about the definition of "LMO-free" products. (Codexrichtlinie zur Definition der "Gentechnikfreiheit") This guidance applies for foodstuffs that are labeled as "without use of gene technology".

### **Federal State Law**

In Austria nature conservation, water protection areas, landscape preservation, animal breeding, and fishery are covered by State laws. Several states have amended laws in order to cover the deliberate release of LMOs – both for scientific and for commercial purposes – in conservation areas and for animal breeding and fishery.

### **Biotechnology Precautionary Bills Already in Eight of the Nine States**

Nature Conservation:

In principle the State Laws on Nature Conservation lay down a prohibition of the deliberate release of LMOs into nature. Exceptions are made in cases of compliance with the Austrian Gene Technology Act if there are no adverse effects on the balance of nature, on wild animals and plants, and on landscapes in general.

Precautionary Bills generally include the authority to pass statutory coexistence measures that are aimed against "contamination" from biotech crops. The release of biotech crops is subject to prior registration or approval by the authorities. Sensitive areas like national parks or nature reserves can generally be excluded from the planting of biotech crops.

In the eight Federal States of Salzburg, Carinthia, Burgenland, Tyrol, Lower Austria, Vienna, Upper Austria, and Styria, Biotechnology Precautionary Bills have already passed State Governments. The State Vorarlberg has not issued a special Precautionary Bill, but the Act on Environmental Protection and Rural Development contains the possibility of prohibiting the cultivation of biotech crops (approval is required). The draft law of Upper Austria in 2002 aimed to prohibit the cultivation of biotech crops, as well as transgenic animals, and it was considered not to be in conformity with the EU law by the EU Commission. In March 2005, the Upper Austrian Government appealed against this Commission decision at the European Court of Justice. The EU Court of First Instance rejected Upper Austria's appeal. Having failed to issue a total ban of biotech crops and animals Upper Austria issued a Biotechnology Precautionary Bill like the model bill of Salzburg and Carinthia. The Upper Austrian Government still wants to fight for a ban of all GMO's and applied for another hearing at the European Court, which is still pending.

## ❑ Responsible Government Ministries

### **Federal Ministry of Health and Women**

Responsible for contained use and deliberate release applications from industry and research institutions except universities.

Contact:  
Dr. Michel Haas  
Federal Ministry for Health and Women  
Dept. IV/B/12  
Radetzkystrasse 2, A-1031 Vienna, Austria  
Phone: + 43 1 71100 4845, Fax: + 43 1 715 24 05  
E-mail: michel.haas@bmgf.gv.at

### **Federal Ministry of Education, Science and Culture**

Responsible for contained use and deliberate release applications from universities.

Contact:  
Dr. Alois Haslinger  
Federal Ministry of Education, Science and Culture  
Rosengasse 2-4, A-1014 Vienna, Austria  
Phone: + 43 1 53 120 7114, Fax: + 43 1 53 120 6205  
E-mail: alois.haslinger@bmbwk.gv.at.

### **Federal Ministry of Agriculture, Forestry, Environment and Water Management/Federal Environment Agency**

Gives comments in cases of deliberate release and of placing products on the market.

Contact:  
Dr. Helmut Gaugitsch  
Federal Environment Agency  
Spittelauer Laende 5, A-1090 Vienna, Austria  
Phone: + 43 1 313 04 3133, Fax: + 43 1 313 04 3700  
E-mail: helmut.gaugitsch@umweltbundesamt.at

## ❑ Biosafety Committee

### **Commission for Gene Technology ("Gentechnik-Kommission")**

The Commission for Gene Technology is an advisory body consisting of representatives

from science, industry, government, NGOs and trade unions. The Commission gives comments on regulations and ordinances, establishes technical guidelines and gives triennial reports to the Parliament. Its scientific subcommittees give advice on actual applications of contained use and deliberate release. The Austrian Gene Technology Act lays down the rules for the installation and work of this commission and its three standing scientific committees.

### **Task Force on Gene Technology in Agriculture (Arbeitsgruppe Gentechnik in der Landwirtschaft)**

The Austrian Ministry of Agriculture initiated the Task Force on Gene Technology in Agriculture with the aim to achieve a coordinated approach for managing the coexistence of biotechnological crops, conventional crops and organically produced crops in all nine Federal States. This task force consists of members of the Ag Ministry, the Health Ministry, representatives of the nine Federal States, the Chambers of Agriculture, and representatives of the organic farmers association.

#### **□ Political Factors**

Austria is well known as one of the strongest opponents of agricultural biotechnology within the European Union. Surveys show that Austrians are more skeptical of biotechnology than the average Europeans. A large discrepancy is found between the acceptance of medical and agricultural applications. Red, or medical, biotechnology is highly accepted whereas applications in agriculture are condemned.

In agriculture, public opinion about biotechnology maintains that it is a hazard for both organic and conventional farming. Austrians, and especially a high percentage of farmers, think that coexistence of biotech crops and conventional crops is impossible in Austria due to the small-scale farm structure.

Austrian politicians, governmental decision makers, farmer organizations and consumers share the opinion that green, or agricultural, biotechnology carries an incalculable risk. Also they do not see any benefits or need for biotech crops in Austria.

Austrian States are taking steps to protect their organic and small-scale conventional agricultural sector by passing biotechnology precautionary bills. In addition to that, tough national regulations on registration, liability and supervision deter farmers and suppliers from employing agricultural biotechnology.

Four Austrian ordinances still effectively ban the planting of all EU-approved biotech crops and the marketing of the approved oilseed rape. The EU Commission has criticized these ordinances for a long time. The voting at a EU Council meeting end of June 2005 did not result in lifting the bans. Up to now there have not been any further actions on the bans. At this time it is hard to predict when and what the Commission will do as a next step.

The Austrian Government used its EU presidency during the first half of 2006 to generate intensive discussion of biotech agriculture within EU countries. Two big conferences on green biotechnology were hosted by Austria. The first conference at the beginning of April was entitled: "Co-existence of Genetically Modified, Conventional, and Organic Crops – Freedom of Choice." The Conference brought together almost 500 various stakeholders from EU Member States. The conference generated lively debate on co-existence and presented both the positive and negative aspects of workable co-existence in Europe. The Austrian Agriculture Minister Josef Proell noted the need for an EU-wide coexistence legislation whereas EU Commissioner Mariann Fischer Boel maintained that an EU-wide legal provision



on coexistence was not justified at present. The second conference in mid April 2006, focused on "The role of precaution in GMO policy". The discussion at this conference evidenced a broad consensus regarding the recognition of the Precautionary Principle as one of the fundamental aspects that define the European approach to biotech legislation.

Hardly any food that has to be labeled under the EU Regulations (EC) No 1829/2003 and No 1830/2003 can be found in Austria's supermarkets and grocery stores. Because of the anti-biotech attitude of Austrian consumers more than 90% of the Austrian retail sector agreed to refrain from stocking or selling biotech food.

NGOs and farmer's organizations, the food-processing sector, and the retail sector are carrying out anti-biotech campaigns where they promote GM-free food.

### **b) List of Approved Biotechnology Crops**

#### **❑ Food, Processing and Feed**

No single biotech crop is approved by Austria. National ordinances still effectively prevent the planting of EU-approved biotech crops.

#### **❑ Environment**

No approvals.

### **c) Field Testing of Biotechnology Crops**

According to the Gene Technology Act, field-testing of biotech crops is allowed in principle, but it has to be approved by the competent authorities. So far there has been no field-testing of biotech crops in Austria. There are also no applications for field-testing at the moment.

### **d) Treatment of 'Stacked' Events**

Not applicable.

### **e) Coexistence**

The Austrian Government is working on coexistence guidelines for biotechnology, conventional, and organic crop production. The Biotechnology Precautionary Bills of the Federal State stipulate registration or approval of planting of biotech crops. The coexistence guidelines should clarify under which circumstances the planting of a biotech crop can be approved. The guidelines will provide crop specific requirements (e.g. isolation distances to other crops).

The Austrian Agriculture Ministry commissioned an expert team consisting of representatives of the Federal States, the Chambers of Agriculture, the Austrian Agency for Health and Food Safety, and the Agriculture Ministry. In addition, an enlarged team with representatives from breeders associations, the seed production sector and consumers were included in this work to develop recommendations for a national strategy on coexistence. The expert group is working on developing uniform Austria-wide guidelines for coexistence management to help state authorities decide whether or not cultivation of biotech crops is possible in a given case and under which conditions such cultivation can be permitted (e.g. minimum isolation distances from non-biotech crops).

## ❑ Liability

The Biotechnology Act has been tightened by the Austrian Government to make producing biotech crops unattractive. Specifically, the Biotech Act foresees a) comprehensive compliance with the precautionary principle; b) “duty of care” against unintended mingling of biotech and non-biotech crops; c) the introduction of a “biotechnology register” to record dates and places of the release of biotech crops, and most important; d) liability and compensation rules regarding perceived damage from biotech crops neighboring conventional or organic farmers. The Austrian Government considers tough liability rules a necessary measure to facilitate coexistence.

## f) Labeling for Packaged Foods or Feeds

According to Regulation (EC) 1829/2003 on genetically modified food and feed and Regulation (EC) 1830/2003 concerning the traceability and labeling of genetically modified organisms and the traceability of food and feed products from genetically modified organisms, all foods and feeds containing more than 0.9% genetically modified organisms have to be labeled as genetically modified.

## ❑ Enforcement

Official enforcement control is carried out at every stage of production and trade in order to check requirements for biotech products. Producers and traders are required to document products containing GMOs and forward this information to all buyers in the distribution channel. The Austrian Agency for Health and Food Safety (AGES) is in charge of monitoring the implementation of all biotech products. AGES is carrying out about 345 inspections per year throughout Austria to control labeling requirements. Those inspections are mainly done at wholesalers and producers. Inspections include audits of documentation and if products of suspicion (e.g. containing soybean meal originating from a country, where GMO's are produced on a large scale) are found, the product itself is tested. In 2004, two tested products were rejected because of exceeding biotech threshold values (0.9%) according to the Traceability and Labeling Regulations. At the moment only a few samples are tested from supermarket shelves. Imported products are mainly checked through the documentation that has to certify that it is GM-free. The Traceability and Labeling Regulations do not stipulate specific penalties for non-compliance for EU Member States. However, Article 74 of the Austrian Food Law provides a framework for fines up to a maximum penalty of 7,300 Euro for individual violations. In addition approximately 200 seed lots (corn, rapeseed, and soybean) per year are tested for GMO occurrence. The inspections include product analysis, and audits of documentation. Regarding seeds, in 2004 no violations were found. Government officials state, that the number of audited establishments and the number of tested samples will be increased, if an increased number of violations against biotech regulations are found. At the moment, the emphasis of Austrian enforcement is mainly at the documentation level and not on product testing.

## g) Biosafety Protocol

Austria signed the Cartagena Protocol on Biosafety on May 24, 2000. It was ratified in August 2002 and entered into force on September 11, 2003.

### **National Focal Point – Biosafety Clearing House**

The Federal Environment Agency acts as the National Focal Point and Biosafety Clearing House in the framework of the Cartagena Protocol on Biosafety.

**For the "Intergovernmental Committee for the Cartagena Protocol on Biosafety (ICCP)":**

Contact:

Dr. Helmut Gaugitsch  
Federal Environment Agency  
Spittelauer Laende 5  
A-1090 Vienna  
Austria  
Phone: + 43 1 313 04 3133, Fax: + 43 1 313 04 3700  
E-mail: helmut.gaugitsch@umweltbundesamt.at

**For the "Biosafety Clearing House (BCH)":**

Contact:

Mag. Alice Schmatzberger  
Federal Environment Agency  
Spittelauer Laende 5  
A-1090 Vienna  
Austria  
Phone: + 43 1 313 04 3135, Fax: + 43 1 313 04 3700  
E-mail: alice.schmatzberger@umweltbundesamt.at

**h) Biotechnology Related Trade Barriers that Hurt U.S. Exports**

The main trade barrier to U.S. biotech products is the fact that the Austrian public does not accept biotech crops, food and feed. The Austrian and EU regulatory systems are also trade barriers for agricultural biotech products.

**i) Pending Legislation to Affect U.S. Exports**

None.

**j) Biotechnology in Austria in the context of the EU**

See above.

**k) 'Technology Fees' for Commercially Planted Biotechnology Crops**

Not applicable.

**SECTION IV. MARKETING ISSUES****a) Market Acceptance Issues to the Sale of Biotechnology Crops**

The average consumer in Austria has a very negative attitude towards crops and food deriving from biotech crops. Presently there is only a market for feed derived from biotech crops.

**b) Studies on the Marketing of Biotechnology Products**

"Eurobarometer 2002"

The EU co-financed study shows that Austrians are still the most opposed consumers against biotech products within the EU.

According to a survey done by the Focus Institute and published in September 2005, only 11% of Austrian consumers are willing to buy foods containing biotech ingredients. Three percent of these would definitely buy biotech products. However, the large majority of respondents refuse to purchase biotech foods. In general, women were more skeptical about biotechnology than men, and young people (up to 29 years old) were more open to biotechnology than older people. Interviewees with above average income showed more willingness to buy biotech products. A high number of explicit "non-buyers" were university graduates. Regarding provinces, Vienna was the most biotech-friendly area.

## **SECTION V. CAPACITY BUILDING AND OUTREACH**

### **a) USDA-funded Capacity Building or Outreach Activities**

FAS Attendance to biotech conferences in Austria

- 2006 The Role of Precaution in GMO Policy Conference, Vienna
- 2006 GMO Co-Existence Conference, Vienna
- 2005 GMO Co-existence Symposium in Austria

U.S. Speakers on biotechnology at various Austrian Universities and institutions.

- 2005 FAS presentation including biotechnology at Vienna Agricultural University
- 2004 FAS presentation including biotechnology at Vienna Agricultural University
- 2003 FAS presentation including biotechnology at Vienna Agricultural University
- 2003 U.S. biotech expert to Austria – 1 month (several presentations and meetings)

Press conferences held by.

- 2004 Press Conference on biotechnology by U.S. Grains Council and National Corn Grower Association EU Biotechnology Fact Finding Mission in Vienna
- 2003 Press conference on biotech products and organics Agricultural Counselor and Attache on biotechnology

Austrian government officials and opinion leaders attended biotech programs of the International Visitor Program and the Voluntary Visitor Program of State Department.

- 2004 3 participants to Voluntary Visitor Program (biotechnology as a tool against western corn root worm)
- 2004 1 participant to biotech program of International Visitor Program

### **b) Needs or Strategies**

## **SECTION VI. REFERENCE MATERIAL**

- Gain AU6014 The Role of Precaution in GMO Policy Conference, Vienna
- Gain AU6012 Austrian Government Bans GT73 Oilseed Rape
- Gain AU6011 GMO Co-Existence Conference, Vienna
- Gain AU5029 Austria to Lead GMO Debate
- Gain AU5022 European Court of Justice Rules Against Upper Austria's GMO-free Zones
- Gain AU5019 Survey Shows Only 11% of Consumers Willing to Buy Biotech Foods
- Gain AU5012 Biotechnology, Annual
- Gain AU5004 Organic Farmers' Association Starts New Anti-Biotech Campaign
- Gain AU4032 Austria Liberalizes Biotech Law, but Barriers for Biotech Crops Remain

Gain AU4017 Implementation of EU Traceability and Labeling Regulations  
Gain AU4014 Local GMO-Free Bills Move Closer to Becoming Law  
Gain AU4009 Consumer Attitudes on Biotechnology  
Gain AU4006 Major Food Retailers Say "NO" to Biotech Foods  
Gain AU4003 The Consumer is always right!  
Gain AU4002 Austrian Observations on Biotechnology in Food and Agriculture

## **APPENDIX A. TABLE OF APPROVED BIOTECHNOLOGY PRODUCTS**

None.